

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. ) CRIMINAL ACTION  
 )  
 MUNEEB AKHTER, ) 1:15-cr-124  
 )  
 Defendant. )  
 )

## REPORTER'S TRANSCRIPT

SENTENCING HEARING

October 2, 2015

— — —

BEFORE: THE HONORABLE T.S. ELLIS, III  
Presiding

APPEARANCES: JOHN TADDEI, AUSA  
JENNIFER CLARKE, AUSA  
KELLEN DWYER, AUSA  
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For the Government

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— — —

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1 APPEARANCES (Continued)

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(Court adjourned)

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PROCEEDINGS

(Court called to order at 11:54 a.m. in USA  
v. Muneeb Akhter.)

THE COURT: United States versus Muneeb  
Akhter, Criminal Case Number 1:15-cr-124.

Counsel please note your appearance for the  
record.

ATTORNEY TADDEI: Good morning, your Honor.  
John Taddei, Jennifer Clarke and Kellen Dwyer for the  
United States.

ATTORNEY CLARKE: Good morning, your Honor.

THE COURT: Good morning to you all.

Mr. McCarthy, good morning to you.

And the record will reflect that the  
defendant is now present in the courtroom in the  
marshal's custody.

Let me ask, is the counsel for Sohaib Akhter  
in the courtroom?

ATTORNEY ABBAS: Yes, your Honor.

THE COURT: What's the problem with going  
ahead at 1:00 o'clock?

ATTORNEY ABBAS: I have not had a chance yet  
to speak with all the individuals involved.

THE COURT: I don't hear testimony for

1       sentencings. You understand that.

2               ATTORNEY ABBAS: If that's your Honor's  
3       wish, then obviously we will follow that.

4               THE COURT: Mr. McCarthy, you've got some  
5       gray hair. How long have you been here?

6               ATTORNEY MCCARTHY: A few weeks, your Honor.

7               THE COURT: Measured in powers of ten?

8               ATTORNEY MCCARTHY: Measured in many powers  
9       of ten.

10              THE COURT: And in your experience, have you  
11       presented witnesses in sentencings? How often?

12              ATTORNEY MCCARTHY: I have not, your Honor.

13              THE COURT: If there is some really --  
14       something significant that I have to hear as a matter of  
15       testimony, rather than submitting letters or something,  
16       I'll consider it. But I typically do not hear any  
17       testimony, unless there is some disputed fact that has  
18       to be resolved by testimony.

19              ATTORNEY ABBAS: I understand that, your  
20       Honor. And I understand that the testimony of,  
21       especially a character-based witness is not typical in  
22       sentencing. But I do think that a brief testimony from  
23       a single witness might provide the Court --

24              THE COURT: I'll let you make a proffer, but  
25       I probably won't hear the testimony.

1 ATTORNEY ABBAS: Yes, Your Honor.

2 THE COURT: But be here at 1:00 o'clock  
3 then. Is there any reason you can't be here at  
4 1:00 o'clock?

5 ATTORNEY ABBAS: Well, I am here now, and we  
6 will be here at 1:00 o'clock, yes, your Honor.

7 THE COURT: All right. I would like to go  
8 ahead then, if I can.

9 RECAPITULATION BY THE COURT

10 THE COURT: All right. This matter is  
11 before the court for sentencing, this defendant having  
12 been found guilty on the basis of pleas to a number of  
13 counts of the indictment, including six counts of a  
14 12-count indictment: Count 1, conspiracy to commit wire  
15 fraud; Count 2, conspiracy to access a protected  
16 computer without authorization; Count 7, access to a  
17 protected computer without authorization; Count 8,  
18 conspiracy to access a government computer without  
19 authorization; Count 10, false statements; and Count 12,  
20 obstruction of justice.

21 Now, the record reflects the following  
22 conduct. There is really a good deal of it.

23 This defendant is the twin brother of a  
24 codefendant. He was hired by FedMine, which is Victim  
25 Company Number 2 in the court documents. It's a data

1 aggregation company. They aggregate data regarding  
2 Federal Government contracts.

3 In November 2013, the end of November, this  
4 defendant e-mailed his brother to tell him he had  
5 modified one of the owner's past login accounts and that  
6 he had created several new login accounts and passwords,  
7 giving him back-end access to the company's computer  
8 systems.

9 And then in November 2013 to February 2014,  
10 he engaged in unauthorized access of FedMine's computer  
11 system. That's Count 7 of the indictment.

12 Then in February of 2014, he inserted codes  
13 into FedMine's computer systems, causing the systems  
14 to -- this is really not that relevant -- to vote for  
15 Muneeb in an online contest and send mass e-mails to  
16 students at George Mason.

17 He ended up, I think, Mr. Taddei,  
18 apologizing to the company for that.

19 ATTORNEY TADDEI: In part, your Honor; but  
20 he also made a veiled threat to the victim of --

21 THE COURT: Yes, I recall that. But in any  
22 event, we go on.

23 On March 2014 to April of 2015, during that  
24 period, this defendant and his twin brother and another  
25 defendant, Ishak, a coconspirator, engaged in a

1 conspiracy to gain unauthorized access to Ishak's  
2 mother's company, Leshay Terra (phonetics) -- That's  
3 Victim Company Number 1 in the Court documents -- to  
4 gain access to credit card number of its customers.  
5 That's Counts 1 and 2 of the indictment.

6 And Muneeb, this defendant, secretly  
7 installed a computer code onto the computer system of  
8 this Victim Company Number 1, and this code  
9 automatically e-mailed the credit card numbers and means  
10 of identification of victims to e-mail accounts  
11 controlled by he and his coconspirators. That's in  
12 Counts 1 through 6, but it's Counts 1 and 2 that he has  
13 pled to. But it's part of the related conduct.

14 Then in June of 2014, he provided a sworn  
15 statement to the Department of Homeland Security that he  
16 had created a computer code to gain unauthorized access  
17 to several websites that allowed him to reload gift  
18 cards with actual money.

19 This was a false statement; appears to have  
20 been an attempt to cover up stealing of credit card  
21 information from Victim Company Number 1. That's  
22 involved in Count 9 of the indictment.

23 A reporter, in mid-July of 2014, told this  
24 defendant of an unexecuted state search warrant for  
25 their home residence, and this defendant and his brother



1       erased the contents of their computer.

2               That was obstruction of justice enhancement  
3       for Counts 1 and 2, which we will come to. There is an  
4       objection to that.

5               The federal search warrant was executed at  
6       the residence, and the defendant e-mailed the agents and  
7       said they would be disappointed with the raid results,  
8       and he had wiped the data prior to the warrant being  
9       executed.

10              In October of 2014, this defendant made  
11       false statements on a questionnaire for national  
12       security positions, while maintaining employment with  
13       Booz-Allen.

14              He said that in the past seven years he had  
15       not illegally and without proper authorization accessed  
16       any information technology system or introduced any  
17       programs onto computer systems without authorization  
18       when, in fact, he had done so with Victim Company  
19       Number 1 and with Victim Company Number 2. That's Count  
20       10 of the indictment.

21              Then in October of 2014 to February of 2015,  
22       this defendant's brother was hired as a contract  
23       employee with Accionet (phonetics) and assigned a  
24       position at the State Department.

25              And this defendant's brother engaged in

1 unauthorized access of the State Department's lock-box  
2 database, and he conducted approximately 119 searches  
3 for passport records, including the information of a  
4 special agent investigating him and his brother.

5 Then in February of 2015, his twin brother  
6 surreptitiously installed malicious programs onto State  
7 Department computer systems in an attempt to create at  
8 least one back-door login account. He also downloaded  
9 several programs to a State Department computer in the  
10 hopes of gaining remote access to State Department  
11 computers.

12 In February 2015, on February 15th, they  
13 attempted to install a Gumstix -- the three  
14 conspirators, Sohaib, Muneeb and Ishak -- at a State  
15 Department facility, which would have allowed them to  
16 gain remote access. But the attempt was unsuccessful,  
17 ultimately.

18 In February of 2015 -- I beg your pardon.

19 In March of 2015, this defendant and his  
20 brother were arrested and released on bond with the  
21 condition that they have no contact with the alleged  
22 victims or potential witnesses.

23 And in March, he had -- this defendant had  
24 at least four meetings with Ishak and Sohaib. Sohaib  
25 was present at two of them.

1                   During one meeting with Ishak, which  
2                   occurred outside of Muneeb's residence, Muneeb said that  
3                   he still had the photograph, Social Security number,  
4                   phone number, address and other personal information for  
5                   the case agent.

6                   Then in March, Muneeb drove Ishak to Dulles  
7                   Airport, purchased him a ticket to Malta, all this in an  
8                   effort to avoid having Ishak subject to questioning by  
9                   the police. And that's Count 12 of the indictment.

10                  Muneeb sent a text message to a mutual  
11                  friend and Ishak's, advising the friend to tell Ishak  
12                  not to talk to federal agents. That's March 24th.

13                  April 1st, Ishak returned to the United  
14                  States, and this defendant sent him a text telling him  
15                  to stay out of the D.C. area or any place -- or any  
16                  place else that law enforcement agents would look for  
17                  him.

18                  And he also searched for things like  
19                  "breaking bond agreement" on his home computer.

20                  And ultimately, I revoked his bond.

21                  He also, on April 6th, 2015, he e-mailed the  
22                  probation officer, saying that, "As a neutral party, I  
23                  would urge you to refrain from contacting the  
24                  prosecution on activity you deem concerning before first  
25                  giving my attorney and me a chance to explain."

1           He said, "I swear I did not have contact  
2           with codefendants regarding the case postarrest and have  
3           not broken my bond agreement."

4           Well, of course, that was not true.

5           Now, one other fact I think is worth  
6           mentioning is that while this defendant was an inmate at  
7           the Alexandria Detention Center, he attempted to install  
8           a program on the computers at the law library. This  
9           program would have served as a message board allowing  
10          inmates to post messages to an offline local forum. He  
11          got a sanction within the detention center for that.

12          That's a very brief summary of the offense  
13          conduct involved.

14                   OBJECTIONS/CORRECTIONS TO PRESENTENCE REPORT

15               THE COURT: Let me ask, first of all,  
16               Mr. McCarthy, have you had an adequate opportunity to  
17               review the presentence report and to review it with your  
18               client?

19               ATTORNEY MCCARTHY: Yes, your Honor.

20               THE COURT: Mr. Akhter, have you had an  
21               opportunity to review the presentence report and to  
22               review it with your counsel, Mr. McCarthy?

23               THE DEFENDANT: Yes, your Honor.

24               THE COURT: And are you fully satisfied with  
25               the advice and counsel he has provided to you in this

1 case?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. You may be seated.

4 THE DEFENDANT: (Complies.)

5 THE COURT: Now, Mr. McCarthy, I know you  
6 have a number of objections. I'll come to those in a  
7 minute. But let me deal with the government.

8 Does the government have any remaining  
9 objections?

10 Originally the government objected to  
11 sophisticated means or special skill. You wanted both  
12 of them applied.

13 ATTORNEY TADDEI: Well, your Honor, the  
14 government believes that a sophisticated means  
15 enhancement is appropriate. The defendant actually did  
16 not receive an enhancement for use of a special skill  
17 for Count Group 1, which seemed to be the reasoning  
18 employed by the Probation Office as to why it didn't  
19 also issue a sophisticated means enhancement.

20 The government maintains that a  
21 sophisticated means enhancement is appropriate, given  
22 Mr. Akhter's conduct, particularly with respect to the  
23 fraud side of things.

24 The way that this fraud was carried out was  
25 by first installing a key logger onto the victim's

1 computer system, then installing various different  
2 codes, including one that was specifically designed to  
3 evade detection. That was, in fact, successful, as the  
4 code wasn't discovered for almost a year, during which  
5 time e-mail accounts that the defendant had set up  
6 continued to collect credit card information.

7 This was, in our view, certainly more  
8 sophisticated than the garden variety fraud offense, and  
9 the government maintains that that is --

10 THE COURT: Is it your view that special  
11 skill under 3B1.3 should be applied?

12 ATTORNEY TADDEI: Well, your Honor, I  
13 believe that there is a conflict within the guidelines  
14 themselves. I think the use of the special skill --

15 THE COURT: What is the answer to my  
16 question?

17 ATTORNEY TADDEI: Your Honor, I do believe  
18 that if it was able to be applied, that it would be  
19 appropriate to be applied in this case.

20 THE COURT: Why isn't it able to be applied?

21 ATTORNEY TADDEI: I believe there is a  
22 conflict between use of a special skill and receiving  
23 enhancement for, I think it's a leadership position.

24 THE COURT: Yes, there is.

25 ATTORNEY TADDEI: Yes, your Honor.

1 THE COURT: But put that to one side.

2 ATTORNEY TADDEI: Yes.

3 THE COURT: Let's suppose he doesn't get a  
4 leadership position. Then wouldn't the special skill  
5 apply in this case?

6 ATTORNEY TADDEI: Well, yes, your Honor.  
7 Then in that situation the government would maintain  
8 that both enhancements would be appropriate. Not only  
9 did the defendant use special skills to execute this, he  
10 also did -- he also performed this criminal conduct in  
11 such a way that the means that the offenses were carried  
12 out were sophisticated.

13 Simply because someone --

14 THE COURT: There are cases that hold that  
15 both of them can apply.

16 ATTORNEY TADDEI: That's correct, your  
17 Honor.

18 THE COURT: So your objection, then, is with  
19 respect to the guidelines, that if a role enhancement  
20 does not apply, then he should receive a 2B1.1(b)(10)(C)  
21 enhancement --

22 ATTORNEY TADDEI: That's correct, your  
23 Honor.

24 THE COURT: -- for sophisticated means.

25 ATTORNEY TADDEI: In addition to --

1 THE COURT: All right. That's an objection  
2 you have, and we will come back to that.

3 Thank you.

4 ATTORNEY TADDEI: Yes, your Honor.

5 THE COURT: We'll come back to that.

6 Now let's go back to yours, Mr. McCarthy.  
7 The first one you raised was on paragraphs 13 and 14,  
8 which describe a domestic squabble between the defendant  
9 and his brother, and you argue those are irrelevant to  
10 the charges; is that right?

11 ATTORNEY MCCARTHY: Yes, your Honor.

12 THE COURT: I agree that they are irrelevant  
13 to the Court's sentencing decision, but I am not going  
14 to strike those from the presentence report because I  
15 think it's information that the Bureau of Prisons and  
16 the supervising officer might profit from. But it  
17 doesn't affect my sentencing decision and it isn't -- it  
18 doesn't affect the guidelines.

19 ATTORNEY MCCARTHY: Very good, your Honor.

20 THE COURT: Now the second one,  
21 Mr. McCarthy, is that -- paragraph 109, where the  
22 probation officer indicated that he had talked to -- or  
23 he was talking to somebody on the Darknet about the case  
24 agent's information.

25 And you deny -- you say your client denies



1       that he intended to sell the case agent's information.  
2       Is that right?

3                   ATTORNEY MCCARTHY: That's correct, your  
4       Honor.

5                   THE COURT: Well, the answer to that is, I  
6       don't read paragraph 109 as saying that he intended to  
7       sell it.

8                   But what I am going to do is to require the  
9       probation officer to add to paragraph 109 the statement  
10      that: The defendant denies that he intended to sell  
11      this information.

12                  Now, I think what we do have in the record  
13      is that Ishak told -- or said that the defendant told  
14      him -- that is, that Muneeb told him that the  
15      information would be extremely valuable to criminals,  
16      and that he could either use the information himself or  
17      sell it on the Darknet.

18                  I don't think there is any doubt that that's  
19      what Ishak said.

20                  Now, you can certainly argue that I  
21      shouldn't accept what Ishak said as true. But in any  
22      event, it doesn't affect the guidelines calculation.  
23      And I am adding to paragraph 109 his denial that he  
24      intended to sell it. And I think that takes care of  
25      that objection.

1 ATTORNEY MCCARTHY: It does. Thank you,  
2 your Honor.

3 THE COURT: Next, we have the -- there was a  
4 restitution problem, but I think that's been resolved in  
5 your favor, I think, Mr. McCarthy, in your client's  
6 favor.

7 Initially, the probation officer recommended  
8 that the defendant pay restitution totaling 13,950 to  
9 Federal Mine or FedMine.

10 And you objected, and the probation officer  
11 agreed that that was more of an intended loss than an  
12 actual loss. And so as of the time of the presentence  
13 report, Federal Mine has not advised the probation  
14 officer of any actual loss.

15 So the restitution should be how much now?

16 ATTORNEY TADDEI: Your Honor, we have an  
17 order prepared for entry, restitution amount of  
18 \$31,375 --

19 THE COURT: And it doesn't include the  
20 Federal Mine stuff.

21 ATTORNEY TADDEI: That's correct, your  
22 Honor. It does not.

23 THE COURT: So that objection ultimately you  
24 prevailed on, Mr. McCarthy.

25 Then we come to role in the offense. And

1 here, the defense counsel, you, Mr. McCarthy, object to  
2 the defendant being assessed a two-level enhancement for  
3 playing an aggravating role in the offense.

4 I have looked at some of the telephone  
5 conversations and other things, and -- go ahead and tell  
6 me what your position is, briefly, Mr. McCarthy, on  
7 this.

8 ATTORNEY MCCARTHY: When the defendant and  
9 his brother were together -- they parted company when  
10 his brother went to Richmond to go to Virginia  
11 Commonwealth University for grad school.

12 It was at that point in time when Muneeb  
13 Akhter, the defendant here, encountered  
14 Mosivek (phonetics) Ishak. Mosivek Ishak had the  
15 relationship with his mother's business, Shay Terra, the  
16 online retail store for cosmetics.

17 It was at that point in time when, it's our  
18 assertion, that the brainstorm to do this came from  
19 Mosivek Ishak, figuring out how he could use Muneeb  
20 Akhter to facilitate penetration of the computer to  
21 access these credit card numbers -- not to diminish what  
22 Muneeb Akhter himself did.

23 But I think as the Court can see from many  
24 episodes in Muneeb Akhter's life, he is extremely  
25 vulnerable to suggestion and to following the --

1 THE COURT: Who is amenable to suggestion?

2 ATTORNEY MCCARTHY: Muneeb Akhter is  
3 extremely amenable to suggestion and to --

4 THE COURT: Really?

5 ATTORNEY MCCARTHY: It's been our  
6 experience, looking at this case, from his paying of  
7 tuition to college classmates, to, frankly, assisting  
8 Ishak --

9 THE COURT: You've read these transcripts.

10 ATTORNEY MCCARTHY: I have, your Honor. I  
11 understand what the Court is saying.

12 THE COURT: He doesn't strike me as a person  
13 who is led around by the ring in his nose.

14 ATTORNEY MCCARTHY: What I mean to suggest  
15 to the Court is, the genesis of the idea --

16 THE COURT: All right.

17 ATTORNEY MCCARTHY: -- doesn't flow entirely  
18 from this gentleman.

19 Undoubtedly, he had the skill-sets that  
20 Mosivek Ishak did not have. And I think what we are  
21 doing is conflating the ability to actually implement an  
22 idea with the headwaters of the idea.

23 THE COURT: All right.

24 ATTORNEY MCCARTHY: That's the point we are  
25 trying to make to the Court.

1 THE COURT: Mr. Taddei, what's your view on  
2 the enhancement for role in the offense?

3 ATTORNEY TADDEI: Well, your Honor, I think  
4 one particular thing is important to know, and it is not  
5 that Mosivek Ishak was the genesis of this fraud and  
6 hacking conspiracy of Victim Company 1.

7 If I could turn your Honor's attention to  
8 PSR paragraph 36, which parrots paragraph 17 of the  
9 statement of facts signed and sworn by Muneeb Akhter,  
10 the genesis of this hacking and fraud conspiracy came  
11 when Muneeb Akhter communicated with a coconspirator on  
12 the dark web and tried to gain access into a hacker  
13 collective.

14 After that, Muneeb was the one who went in  
15 and modified codes on Victim Company 1's computer,  
16 himself, without the assistance of Ishak or his brother.  
17 And it was only at that point, once he decided that this  
18 would be a good way to gain credit card information and  
19 use it, that he pulled in Mr. Ishak and his brother.

20 So the genesis and really the conspiracy  
21 does not occur if Mr. Akhter does not work with this  
22 Darknet coconspirator to first install codes and then to  
23 bring in his brother and Ishak to set up actual e-mail  
24 accounts, which Muneeb Akhter controlled, to collect  
25 this credit card information, and then he himself was

1 the one who tested the success of this conspiracy by  
2 flying out to California using the credit card  
3 information.

4 So he was certainly the hub of this fraud  
5 and hacking conspiracy, and as a result we believe the  
6 two-point enhancement is appropriate, your Honor.

7 THE COURT: All right.

8 Let's -- I am going to reserve on that for a  
9 moment, because it runs into conflict with the use of a  
10 special skill. And let's go to that now.

11 Mr. McCarthy, you object to paragraphs 118,  
12 140, 148, the use of a special skill. You make an  
13 argument -- I am not sure I understand it. You say that  
14 all skills are special to the people who possess them.

15 Well, that's true, but I don't know what  
16 that answers. You know, a neurosurgeon has skills that  
17 are peculiar to neurosurgeons. That doesn't make them  
18 not special skills.

19 ATTORNEY MCCARTHY: No, it doesn't make them  
20 normal skills. But what I am trying to help the Court  
21 reach is the conclusion that this behavior has to be  
22 viewed in the context of other offenses of similar  
23 nature.

24 Some skills -- some offenses by definition  
25 do require extraordinary skills. But what we are trying

1 to do is compare the behavior of this defendant in this  
2 offense with other defendants committing a similar  
3 offense, not with other defendants committing a breaking  
4 and entering.

5 In that --

6 THE COURT: Really? Where do you get any  
7 support for that?

8 That's like saying we can't compare a  
9 neurosurgeon with anybody but other neurosurgeons.

10 ATTORNEY MCCARTHY: Well, that's the point  
11 we are trying to advance for the Court.

12 THE COURT: I see. Okay. Well, that  
13 argument doesn't prevail with me.

14 I think the use of a special skill  
15 enhancement is appropriate here. Application Note 4  
16 defines a special skill as a skill not possessed by  
17 members of the general public, and generally requires  
18 substantial education, training or licensing.

19 He has that substantial education and  
20 training. There is no doubt that the skills possessed  
21 by this defendant are not possessed by members of the  
22 general public, at least not yet.

23 A few generations from now, who knows? But  
24 in any event, they aren't possessed by people in the  
25 general public.

1                   This defendant has an extensive education.  
2                   He has a master of science in computer engineering. And  
3                   in his own statement when he accepts responsibility he  
4                   says, "Without authority, I improperly used my advanced  
5                   computer training and skills to access and obtain  
6                   information I should not have had."

7                   And I think this is clearly a case in which  
8                   the 3B1.1.3 special skill applies.

9                   Now, for reasons that I am not now familiar  
10                  with, application of this enhancement precludes role in  
11                  the enhancement.

12                  So, Mr. McCarthy, you win on that.

13                  And I might point out, Mr. Taddei, there is  
14                  some ambiguity on role. These three were all, I think,  
15                  deeply involved in this, and it's not pellucidly clear,  
16                  if I can use that tautology, it's not pellucidly clear  
17                  that he was any more a leader than his brother in this.

18                  So, he will get the two-level enhancement  
19                  under 3B1.3, but he will not get the two-level  
20                  enhancement for role. But that's by fiat of the  
21                  Sentencing Commission.

22                  I'll come back to your argument on the 2 --  
23                  what is it, 2B1 --

24                  ATTORNEY TADDEI: Sophisticated means, your  
25                  Honor.



1 THE COURT: Sophisticated means. I'll come  
2 back to that because I want to give Mr. McCarthy a  
3 chance to respond to that.

4 Now we go to obstruction of justice. And  
5 Mr. McCarthy, I see that you object to obstruction of  
6 justice paragraphs 121 and 135. This goes to the  
7 erasing the contents.

8 You argue, I think, that the unexecuted  
9 state search warrant was not necessarily related to the  
10 investigation of the instant offense of conviction. Is  
11 that your view?

12 ATTORNEY MCCARTHY: That's right, your  
13 Honor. Under 3C1.1, if it's not related to the instant  
14 offense, the Court should consider omitting these two  
15 points. And we would ask the Court to do it. It was a  
16 state search warrant that was never executed.

17 THE COURT: All right.

18 Mr. Taddei, what's your view?

19 ATTORNEY TADDEI: Your Honor, that's a very  
20 narrow reading related to the investigation, prosecution  
21 or sentencing of the instant offense of conviction.

22 The same investigators that approached the  
23 U.S. Attorney's Office, honestly, very soon after they  
24 attempted to get the state search warrant, were the  
25 investigators that were involved in securing that state

1 search warrant.

2 The information that was erased was  
3 information that was contained in the e-mail accounts  
4 that the Akhter brothers and Mr. Ishak used to collect  
5 credit card information; certainly relevant to the  
6 offense of conviction here.

7 There is no material distinction to whether  
8 the defendants erased the information because they  
9 thought they were thwarting a state investigation at the  
10 time or they thought they were thwarting a federal  
11 investigation. The only inquiry is whether it's  
12 relevant to the investigation and prosecution of this  
13 case.

14 We maintain that evidence contained in those  
15 e-mail account and on those computers was relevant to  
16 the investigation of this case and it was erased and, in  
17 fact, hampered the investigation.

18 Thank you.

19 THE COURT: Well, in my view, I'll overrule  
20 this objection. I think the destruction of evidence by  
21 the defendant here was related to the investigation into  
22 the instant offenses. And Application Note 1 says,  
23 "Obstructive conduct that occurred prior to the start of  
24 the investigation of the instant offense of conviction  
25 may be covered if the conduct was purposefully

1       calculated and likely to thwart an investigation or  
2       prosecution of offense of conviction."

3               I don't have any doubt that this obstruction  
4       does apply with respect to their activities on Victim 1,  
5       Company Victim Number 1. By deleting the information  
6       from his computer and cell phone, the defendant was  
7       really trying to conceal or destroy evidence that formed  
8       the basis of the offense of the conviction here.

9               And indeed, he e-mailed agents who  
10       participated in the search warrant, telling them that he  
11       had wiped it clean and they would be disappointed.

12              So I think it clearly applies here.

13              Now we go to acceptance of responsibility.

14              Now, Mr. Taddei, let's begin with you,  
15       because I think I understand the parties' positions  
16       somewhat. I'll let you go first. And what we have here  
17       is obstructive conduct that occurred before the plea.  
18       No obstructive conduct occurred after the plea.

19              Now it's quite true that -- what is it? I  
20       have it here. It's quite true that in the Knight case,  
21       the Fourth Circuit made clear that although acceptance  
22       of responsibility credit is not typically applicable  
23       where obstruction of justice occurs, but may in an  
24       extraordinary case.

25              And so the question then would be whether

1 this would be an extraordinary case. And it is true  
2 that you can have obstruction and that you can have  
3 acceptance of responsibility in the same case. The  
4 Knight case makes that clear, doesn't it?

5 ATTORNEY TADDEI: It's left to the  
6 discretion of the judge, yes, your Honor.

7 THE COURT: That's right.

8 Now, I do think there is some force to the  
9 defendant's argument that once they decided to plead,  
10 they ceased obstructing justice and that they came  
11 clean.

12 Why doesn't that argument have a lot of  
13 force?

14 ATTORNEY TADDEI: Well, Your Honor, the  
15 government, as we laid out in our filing, maintains that  
16 this is simply not an extraordinary case here. And both  
17 the guidelines and the precedent of United States versus  
18 Knight, which has been followed up on many times in the  
19 Fourth Circuit, states that only in an extraordinary  
20 case may a defendant receive both credit for acceptance  
21 of responsibility as well as receive an obstruction of  
22 justice enhancement.

23 And in addition to the reason I will note,  
24 your Honor, for the defendant receiving this obstruction  
25 enhancement, which specifically related to the conduct

1       that we just addressed, the erasing of the information  
2       on the computers in July of 2014, the defendant,  
3       post-charging in this case, when a criminal complaint  
4       was first brought, continued to obstruct justice while  
5       he was let out on bond --

6               THE COURT: Yes, but that's a separate count  
7       in the indictment.

8               ATTORNEY TADDEI: Yes, it is, your Honor.  
9       But it's indicative of why this isn't an extraordinary  
10      case.

11              The government reads the phrase  
12      "extraordinary case" to indicate in a circumstance where  
13      the defendant goes above and beyond what a normal  
14      defendant would do in the circumstances in demonstrating  
15      acceptance of responsibility for their crimes and their  
16      conduct.

17              Then that person, even though they in the  
18      past have obstruct and received an enhancement for  
19      obstruction, may receive the reduction for acceptance.

20              Based on the defendant's conduct, not only  
21      post-charging but his continued activities in the jail,  
22      demonstrate that he doesn't really believe what he did,  
23      in terms of hacking computer systems and violating the  
24      law in that way was fundamentally wrong.

25              He continues to engage in that activity. He

1 continues to tamper with witnesses --

2 THE COURT: I think I take --

3 ATTORNEY TADDEI: -- after charging.

4 THE COURT: -- your point. And of course,  
5 if there were not a separate count in the indictment, I  
6 think it would be compelling.

7 My problem is that we are double-counting if  
8 I don't consider that that's accounted for elsewhere.

9 ATTORNEY TADDEI: Well, I don't think that  
10 represents a problem, your Honor, because the standard  
11 is whether or not this defendant has clearly  
12 demonstrated acceptance of responsibility, not whether  
13 or not they have pled guilty to other crimes.

14 Now, Mr. Akhter did plead guilty to his  
15 obstructive activity with Mr. -- with Mr. --

16 THE COURT: Ishak.

17 ATTORNEY TADDEI: -- Ishak. He has not  
18 clearly demonstrated the degree of acceptance that is  
19 required to overcome the extraordinary --

20 THE COURT: So what --

21 ATTORNEY TADDEI: -- circumstances --

22 THE COURT: -- you are saying is that this  
23 isn't an extraordinary case, far from it in your view,  
24 because this defendant, after he was arrested and  
25 charged, engaged in obstructive activity.

1 ATTORNEY TADDEI: That's correct, your  
2 Honor.

3 THE COURT: He didn't engage in any  
4 obstructive activity after he pled.

5 ATTORNEY TADDEI: No, your Honor, although  
6 he did engage in activity which indicates he does not  
7 clearly accept responsibility for the wrongfulness of  
8 his conduct.

9 THE COURT: And what activity was that?

10 ATTORNEY TADDEI: Breaking into a jail  
11 computer --

12 THE COURT: Ah.

13 ATTORNEY TADDEI: -- and installing a  
14 program despite clear indications that this was  
15 inappropriate.

16 That's our position on this, your Honor.

17 THE COURT: All right.

18 ATTORNEY TADDEI: Thank you.

19 THE COURT: Mr. McCarthy?

20 ATTORNEY MCCARTHY: After the defendant  
21 entered a guilty plea, he submitted to two very lengthy  
22 debriefings, told the government everything that they  
23 asked him about.

24 The government isn't suggesting to defense  
25 counsel that he wasn't forthright in those --

1 THE COURT: That he what?

2 ATTORNEY MCCARTHY: The government has not  
3 suggested to us that Mr. Akhter was not forthright  
4 during those meetings.

5 He has pled guilty to the --

6 THE COURT: No, they are suggesting that he  
7 didn't admit -- he didn't accept the wrongfulness of his  
8 conduct because he went ahead and did something while he  
9 was in the jail.

10 ATTORNEY MCCARTHY: Well, what I ask the  
11 Court to consider is whether it's apples and oranges.  
12 That is, accepting what you've done, pleading guilty to  
13 it -- the acceptance of that responsibility isn't  
14 diluted by engaging in completely unrelated behavior to  
15 the offenses to which you pled guilty --

16 THE COURT: Why is it unrelated? It's  
17 another computer crime.

18 ATTORNEY MCCARTHY: Well, suppose it was an  
19 assault and battery in the jail, a fight in the jail, or  
20 in this case --

21 THE COURT: Then I think --

22 ATTORNEY MCCARTHY: -- a computer crime --

23 THE COURT: -- your point would be stronger.

24 ATTORNEY MCCARTHY: In this instance, with  
25 regard to the computer, we have attached for the Court's



1 consideration exhibits which talk about the request he  
2 made to work on the computers for the betterment of his  
3 fellow prisoners.

4 He didn't get the authorization. It's not  
5 disputed.

6 THE COURT: Well, he went ahead and did  
7 something without authorization.

8 ATTORNEY MCCARTHY: Exactly. I mean, we  
9 don't dispute that.

10 It was -- as Dan Farmer, who wrote a letter  
11 to the Court, coined the phrase, stupendously foolish;  
12 it's an example of a stupendously undersocialized young  
13 person, to actually do that at the detention center.

14 I would only ask the Court to conclude that  
15 because he demonstrates this stupendous  
16 undersocialization, this stupendously poor judgment,  
17 doesn't translate into him to accepting responsibility  
18 for the offenses that bring us here today.

19 He has told the Court under penalty of  
20 perjury at his plea hearing that he not only accepts  
21 responsibility for these things, he has sat down with  
22 the government -- and he will tell the Court in his own  
23 words how he feels about what he has done and how sorry  
24 he is and how he knows he was wrong. He was as wrong as  
25 wrong could be, and he will tell the Court that in his

1 own words.

2 If the Court is not inclined right now to  
3 rule in favor of the defendant on this question of  
4 acceptance of responsibility, perhaps the Court can  
5 defer judgment until it gets a chance to talk to  
6 Mr. Akhter himself.

7 THE COURT: All right.

8 So thus far I have not ruled on the  
9 acceptance of responsibility. I'll save that. And I  
10 haven't ruled on the government's objection to add two  
11 levels under sophisticated means under -- what is it?  
12 2B1 point -- ?

13 ATTORNEY TADDEI: (b) (10) (C), your Honor,  
14 2B1.1 (b) (10) (C).

15 THE COURT: (10) (C). So those are the two  
16 things I have left to rule on.

17 Next is the number of victims. That's been  
18 resolved.

19 There is no objection to that, is there,  
20 Mr. McCarthy?

21 ATTORNEY MCCARTHY: No, your Honor.

22 THE COURT: And is there any objection to  
23 the official victim?

24 ATTORNEY MCCARTHY: No, your Honor.

25 THE COURT: All right. So, that's resolved.

1                   Then that takes us to grouping. Was there a  
2                   problem with grouping, Mr. McCarthy?

3                   ATTORNEY MCCARTHY: Yes, your Honor.

4                   THE COURT: All right. What's the grouping  
5                   problem?

6                   ATTORNEY MCCARTHY: Well, Counts 1 and 2 are  
7                   one group. The other counts of conviction don't matter  
8                   until we get to Count 12, the obstruction count. And  
9                   that gives a half a point, which translates into the  
10                  addition of one offense level.

11                  We would ask the Court to conclude that it  
12                  should be grouped with Group 1, Counts 1 and 2, because  
13                  Count 12, the obstruction count, is taken into  
14                  consideration in calculating the offense level in  
15                  Counts 1 and 2.

16                  Under 3D1.2, counts are to be grouped  
17                  together if they involve substantially the same harm.  
18                  And they define that in part as when one group of --  
19                  when one of the counts embodies conduct that is treated  
20                  as specific offense characteristics or in adjustment to  
21                  another count, they should be grouped together.

22                  And that's what's happened in this case,  
23                  because we are finding him guilty of obstruction in  
24                  Counts 1 and 2. It's not that he is not to be sentenced  
25                  on Count 12 -- and Count 12 also has the added dimension

1 of a concurrent -- or a consecutive sentence. But for  
2 grouping purposes, it shouldn't increase the offense  
3 level one level.

4 THE COURT: All right. Just a moment.

5 (Pause.)

6 THE COURT: Mr. Taddei, what's your view on  
7 this grouping?

8 ATTORNEY TADDEI: Your Honor, the guidelines  
9 state in 3D1.2(d), as well, that it's largely a  
10 case-by-case determination as to whether or not counts  
11 should be grouped together.

12 The Probation Office, we believe, very ably  
13 laid out why these counts were appropriately grouped.  
14 Counts 1 and 2 related to the hacking of Victim Company  
15 Number 1; similar harm. They were financial crimes.

16 The rest of the counts, you have -- Court's  
17 indulgence for a moment, your Honor.

18 You have Count 7, which relates to an  
19 entirely separate company, not a conspiracy, conduct  
20 that Muneeb Akhter himself performs.

21 Then you have Count 8, again, an entirely  
22 separate conspiracy involving the State Department.

23 Count 10, you have separate conduct  
24 involving false statements on a national security form  
25 for an entirely different company.

1                   And then finally Count 12, obstruction of  
2                   justice post-bond release relating to a coconspirator.

3                   So our position is that the counts were  
4                   grouped appropriately. Counts 1 and 2 should be  
5                   together because they involve similar conduct, similar  
6                   victims; but the rest of the counts are of a different  
7                   nature.

8                   THE COURT: All right.

9                   The matter is before the Court on the  
10                  defendant's objection under paragraph 163 to grouping.  
11                  The defendant argues that all counts should be grouped  
12                  together.

13                  The probation officer grouped Counts 1 and 2  
14                  together, and I think that's perfectly appropriate  
15                  because the basis of the -- both of those are related,  
16                  and the basis of the total amount of harm or loss and  
17                  the offense behavior was familiar.

18                  Count 7 was the access of a protected  
19                  computer without authorization. That involved a  
20                  different victim. That was FedMine, where the others  
21                  were Victim Company Number 1.

22                  Count 7 occurred prior to the conspiracy  
23                  with Sohaib and Ishak to steal credit card information  
24                  from Victim Company Number 1. I think that supports the  
25                  separate counting of Count 7.

1           In any event, deciding not to group Count 7  
2           with Counts 1 and 2 doesn't impact the advisory  
3           guideline range, as the offense level is so much lower  
4           for -- than the offense level for Counts 1 and 2.

5           Now for Count 8, the access to a government  
6           computer, also involved a different computer and was  
7           part of -- was not part of a common scheme or plan in  
8           relation to Counts 1 and 2. So I agree with the  
9           probation officer there.

10           And I thought the conduct of Count 8 is --  
11           it's a specific offense characteristic of other counts  
12           of conviction. But, again, the decision not to group  
13           Count 8 with Counts 1 and 2 doesn't impact the guideline  
14           range because the offense level is so much lower than  
15           the offense level for Counts 1 and 2.

16           ATTORNEY TADDEI: Your Honor --

17           THE COURT: As to Count --

18           ATTORNEY TADDEI: If I may, I just wanted to  
19           point one thing out for the Court to note. It's that  
20           with the pending objections to acceptance of  
21           responsibility, as well as the government objections,  
22           there may be impacts on the guideline range per the  
23           grouping rules, depending on how the Court rules on  
24           those outstanding issues.

25           THE COURT: Yes, I think that's a point well

1 taken, which is another way of saying that you may have  
2 figured out how I am going to rule on those matters.

3 But let me just point out that as to  
4 Count 12, the probation officer I think correctly did  
5 not group that count of conviction with the others. It  
6 isn't related to any other offense conduct, other than  
7 as an attempt to obstruct justice and avoiding an  
8 investigation of it.

9 And after his release on bond he violated  
10 his conditions of release by having contact with Ishak  
11 and paying for Ishak's trip to leave the U.S.

12 And I think -- I think of the grouping by  
13 the probation officer is correct.

14 Now, the government has raised the question  
15 whether my statements that it -- the offense level would  
16 be so much less that it wouldn't affect it might change  
17 if I -- depending on my rulings on the acceptance of  
18 responsibility and the sophisticated means.

19 I think I have heard all the argument I need  
20 on acceptance of responsibility, and I think there  
21 aren't any other -- there aren't any other objections by  
22 the defendant, are there, Mr. McCarthy, that I haven't  
23 addressed?

24 ATTORNEY MCCARTHY: No, your Honor.

25 I would point out that as far as grouping is

1 concerned, I don't think the Court's decision on  
2 acceptance of responsibility would affect that. That's  
3 something that --

4 THE COURT: I think you might be right, but  
5 I am not sure about the other one. I am going to think  
6 about that. Because...

7 Well, let's go back, Mr. Taddei, and let me  
8 hear from you on why sophisticated means should be  
9 applied in addition to the special skill.

10 Isn't that double-counting of some sort?

11 ATTORNEY TADDEI: No, your Honor. It  
12 involves separate considerations. An individual can  
13 engage in sophisticated means in order to execute an  
14 offense, you know, consider someone very -- going to  
15 extreme efforts to clandestinely hide something.

16 That doesn't necessarily mean that they used  
17 a particular skill or training --

18 THE COURT: And what is -- what's the  
19 sophisticated means, then?

20 ATTORNEY TADDEI: The sophisticated means  
21 here, your Honor, is inserting complex code onto Victim  
22 Company 1's computer, disguising the code in such a way  
23 that it was almost undetectable to anyone who didn't  
24 know that it was there.

25 The only reason the code was actually



1 discovered is because Mr. Ishak reported exactly what  
2 line of the website to find it in. Otherwise, it could  
3 still be there on the website on this company. This was  
4 done after another code that had been inserted wasn't  
5 particularly effective.

6 Setting up e-mail accounts to act as  
7 repositories for information that was automatically  
8 forwarded to the defendant is particularly  
9 sophisticated.

10 There is no doubt that the defendant used  
11 his training and his talents to perform these aspects of  
12 the crime. But that doesn't make the execution of it  
13 any less sophisticated, your Honor, would be our  
14 position. That is the material difference here between  
15 the two.

16 THE COURT: All right.

17 Mr. McCarthy, anything else?

18 ATTORNEY MCCARTHY: Just one quick  
19 observation.

20 In describing this sophisticated means, the  
21 government really is just describing his special skills,  
22 and it is double-counting. If somebody with special  
23 skills then did other things unrelated to computer  
24 familiarity, such as -- you know, the mine wanders about  
25 all the things somebody could do that would be

1 sophisticated, not related to his computer skills.

2 But in this case, on this case-by-case basis  
3 that the Court engages in, in this case they are mirror  
4 images of each other. And as I say -- as I use that  
5 word, I caution myself because the Court had corrected  
6 me in the past on using "mirror image." But in this  
7 case, the sophisticated means is Mr. Akhter's special  
8 skills and his computer abilities.

9 THE COURT: I am going to recess this  
10 matter, because it's ten minutes to 1:00. I need to  
11 have a quick sandwich and reflect on this.

12 And I am going to take up the other sentence  
13 immediately following this one.

14 When I return, I will rule on the  
15 outstanding objections, which are acceptance of  
16 responsibility by the defendant, and the sophisticated  
17 means objection by the government. Those are the two  
18 that remain.

19 Am I correct, Mr. Taddei?

20 ATTORNEY TADDEI: That's correct, your  
21 Honor.

22 THE COURT: Mr. McCarthy.

23 ATTORNEY MCCARTHY: Yes, your Honor.

24 THE COURT: All right.

25 We will recess until -- let's make it 1:30,

1 so that everyone can have an opportunity to eat.

2 And Mr. Abbas, it will be 2:00 o'clock by  
3 the time we get to you, as it turns out.

4 ATTORNEY ABBAS: That would be perfect, your  
5 Honor.

6 THE COURT: All right. Court stands in  
7 recess until 1:30.

8 (Court recessed at 12:45 p.m.)

9 (Court called to order at 1:32 p.m.)

10 THE COURT: All right. Before the Court are  
11 some remaining objections and I want to review those,  
12 including some I have already done.

13 But I have decided that the sophisticated  
14 means, as the government argues, can be applied in a  
15 case where there is also special skill used; no doubt  
16 about that.

17 But what I find persuasive is that the  
18 arguments made for sophisticated means are essentially  
19 the same arguments that are made for using a special  
20 skill.

21 Now there is -- there is some difference  
22 there in the sense that you can say that certain things  
23 were put on a computer that couldn't be detected, that  
24 sort of thing.

25 But I think in the end, as far as I'm

1 concerned, it does come close to double-counting. And  
2 so I am not going to apply the sophisticated means.

3 I am going to apply the special skill. I  
4 think that clearly applies.

5 Therefore, role in the offense does not  
6 apply and he doesn't get role in the offense.

7 As to grouping, I think the probation  
8 officer has it exactly right the way she has grouped  
9 them, for the reasons I previously stated. That is,  
10 Counts 1 and 2 should be grouped. Count 7 is different.  
11 Count 8 is, again, different; and so is Count 12.

12 In the end, I don't think any of that makes,  
13 at most, an offense level difference, if that, and it  
14 isn't going to affect my decision.

15 Now let's go back. That leaves acceptance  
16 of responsibility as the only matter that I haven't  
17 dealt with.

18 I did overrule the objection to obstruction  
19 of justice. That does get added. And he does get the  
20 special skill enhancement.

21 Now, acceptance of responsibility. It is  
22 quite true, as counsel both recognized -- as both  
23 counsel recognized, that in the Fourth Circuit you can  
24 have acceptance with obstruction, but it -- it's an  
25 extraordinary case that requires that, and the Court has

1 to review the record as a whole and make a judgment.

2 There is very little guidance as to what  
3 constitutes an extraordinary case. I am bound to say I  
4 don't have a recollection of any case in the recent  
5 past, or even in the distant past -- although in the  
6 distant past there I didn't have guidelines. There were  
7 no guidelines in the distant past. But in the past that  
8 I can remember, I have never granted acceptance of  
9 responsibility in the face of an obstruction claim.

10 Now the argument is made by Mr. McCarthy  
11 that there should be no bar to acceptance here because  
12 all of his obstructive behavior occurred before his  
13 plea.

14 That, of course, isn't a conclusive answer  
15 to the question because, as the Fourth Circuit in the  
16 Knight case pointed out, you could still have a lack of  
17 acceptance even if the obstructive behavior occurred  
18 prior to the plea.

19 In any event, Mr. Taddei points out, there  
20 was some obstructive behavior -- not obstructive --  
21 there was some behavior post-plea that suggested a lack  
22 of acceptance of responsibility, namely the shenanigans  
23 with the jail computer.

24 In the end, it's a judgment, just like the  
25 sentence. And I have looked at the record as a whole.

1 The argument -- or the government doesn't contest the  
2 fact that this defendant was forthright and honest when  
3 he did make his meetings or his proffers to the  
4 government. I have that right, I think.

5 Don't I, Mr. Taddei?

6 ATTORNEY TADDEI: Yes, that's correct, your  
7 Honor.

8 THE COURT: Now the government in the plea  
9 agreement didn't agree to an acceptance of  
10 responsibility. All it agreed to was that if he  
11 qualified for acceptance, that the government would give  
12 him the additional -- a motion for the additional level.  
13 So I think we are really talking about three levels  
14 here, one way or the other.

15 In the end, I think it's a very close  
16 question, and I am not even sure in the end it makes  
17 much difference to my sentencing decision. But I am  
18 going to give Mr. Akhter acceptance of responsibility  
19 credit.

20 So in the end, let me recite for the record  
21 how this all comes out for this defendant.

22 For Count 1, it's an offense level of 6,  
23 with specific offense characteristics of loss of more  
24 than 30,000, for plus 6. For 50 or more victims is plus  
25 4. For trafficking of unauthorized access devices, a

1 plus 2. And attempt to obtain personal information  
2 under 2B1.1(b) (17).

3 That comes out to -- and plus 2 for special  
4 skills. So that would -- and 2 for obstruction of  
5 justice, comes out to a total of 24, minus 3 for  
6 acceptance, is 21.

7 Now, for Counts -- that would be the same  
8 for Count 1 and Count 2, I believe.

9 ATTORNEY TADDEI: Your Honor, just to --  
10 just for purposes of the record, the government would  
11 move to apply that additional point pursuant to  
12 Sentencing Guideline, I believe --

13 THE COURT: Thank you.

14 ATTORNEY TADDEI: -- it's 3E1.1.

15 THE COURT: I thank you for that, although I  
16 think you were obligated to do that.

17 ATTORNEY TADDEI: That's correct, your  
18 Honor.

19 THE COURT: All right.

20 But I think what I have done covers Count 1  
21 and Count 2.

22 Am I correct, Ms. Riffle?

23 THE PROBATION OFFICER: Yes, your Honor.

24 But the acceptance of responsibility would be applied  
25 after the grouping.

1 THE COURT: After the grouping.

2 THE PROBATION OFFICER: Yes.

3 THE COURT: All right. So I won't give the  
4 three yet.

5 So that's 24 for Counts 1 and 2.

6 THE PROBATION OFFICER: Yes, your Honor.

7 THE COURT: For Count 7, it's a base offense  
8 level of 6, with 4 levels for offense of a loss of more  
9 than 10, but less than 30. And that comes out to an  
10 offense level of 10.

11 Is that right, Ms. Riffle.

12 THE PROBATION OFFICER: Plus 2, your Honor,  
13 for use of a special skill.

14 THE COURT: Special skill, thank you. So  
15 that's 2, so that's 12.

16 Then we go to Count 8. And Count 8 it's  
17 base offense level of 6, and the offense involved an  
18 intent to obtain personal information, 2.1.1(b)(17),  
19 that's plus 2.

20 And the offense involved a computer system  
21 used by the government, that's plus 2.

22 And a victim-related adjustment under  
23 3A1.2(a) of plus 3; and a special skill is plus 2, for  
24 a -- the offense level of 15.

25 For Count 10, it's 6.



1 For Count 12, it is 14 plus 3, for 17.

2 Do I have that right, Ms. Riffle?

3 ATTORNEY TADDEI: Yes, your Honor.

4 THE PROBATION OFFICER: Yes, your Honor.

5 THE COURT: So now we group, and when we  
6 group we group Counts 1 and 2, which gives you one unit.  
7 Count 7 doesn't add anything. Count 15 doesn't add  
8 anything.

9 Count 6 doesn't add anything -- I beg your  
10 pardon -- Count 8 -- 7 and 8 don't add anything. Count  
11 10 doesn't add anything. And Count 12 doesn't add  
12 anything because the adjusted offense levels are so much  
13 lower.

14 Count 12 does add a .5. Why does it add  
15 a .5, Ms. Riffle?

16 THE PROBATION OFFICER: Because I believe  
17 it's within 5 to 9 offense levels --

18 THE COURT: All right.

19 THE PROBATION OFFICER: -- of the first  
20 count.

21 THE COURT: All right. So that -- so the  
22 greatest of the offense levels is 24. We add 1 to get  
23 25.

24 Now we subtract 3 to get 22.

25 THE PROBATION OFFICER: Yes, your Honor.

1 THE COURT: And so the total offense level  
2 would be 22, with a criminal history category of 1,  
3 which would lead to 41 to 51 months range.

4 Apart from the rulings I have made,  
5 Mr. Taddei, is that a correct calculation?

6 I know you object to some of the rulings.

7 ATTORNEY TADDEI: Yes, your Honor. That is  
8 a correct calculation.

9 THE COURT: And Mr. McCarthy, I know you  
10 object to some of the rulings, but given my rulings, is  
11 that a correct calculation?

12 ATTORNEY MCCARTHY: Yes, your Honor.

13 THE COURT: All right.

14 Now we are at the point of allocution.

15 Mr. Muneeb, this -- or Mr. Akhter, this is  
16 now your opportunity to address the Court and to say  
17 anything at all you wish to the Court by way of  
18 extenuation, mitigation or, indeed, anything you think I  
19 should know before sentence is imposed.

20 You don't have to say anything, Mr. Akhter,  
21 but you do have the opportunity to say something if you  
22 wish to.

23 THE DEFENDANT: Okay. I would like to say  
24 something, sir.

25 THE COURT: All right. Go right ahead, sir.

1 ALLOCUTION BY THE DEFENDANT

2 THE DEFENDANT: I cannot state how deeply I  
3 regret my criminal behavior. Every day I wish I could  
4 rewind time to correct myself and truly consider the  
5 consequences of my actions.

6 However, I take responsibility for my  
7 mistakes. I hope our activities have not subtracted  
8 from the good that we have accomplished and that we can  
9 continue to accomplish.

10 We got carried away. I assure you we will  
11 never approach questionable activity again in our life.

12 I need to apologize to every business  
13 affected and the victims whose information was used,  
14 whose information -- who fell victimized, who were  
15 threatened by my activities.

16 I also want to apologize, and thank  
17 everybody that supported us and sent letters; especially  
18 to my mother and grandma. I betrayed their trust by  
19 this messy situation and I am extremely sorry.

20 I would like to make amends with my skills  
21 and my knowledge to prevent others from similar  
22 situations, and I want to educate the public.

23 I am going to continue to try to find  
24 gainful employment after my incarceration. I will  
25 assist the government in any other cases -- this case

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1 and other cases.

2 Please allow me to rectify myself of my past  
3 and save my future.

4 I would also want the Court to recognize  
5 that my brother is going to be sentenced, and his  
6 counsel is going to object to the victim count, and I  
7 wanted that to be considered.

8 But, other than that --

9 THE COURT: What do you mean by that?

10 THE DEFENDANT: The victim count of four to  
11 two. I don't know if they have resolved that or not.

12 Is it resolved?

13 Yes.

14 So other than that, my time in prison has  
15 taught me the value of freedom. I will never do this  
16 ever again. Thank you.

17 THE COURT: I am not sure I understood the  
18 victim count remark.

19 THE DEFENDANT: It's been resolved, I hear  
20 from counsel.

21 THE COURT: All right. You may be seated.  
22 Mr. McCarthy?

23 ATTORNEY MCCARTHY: Thank you, your Honor.

24

25 ALLOCUTION ON BEHALF OF THE DEFENDANT

1 ATTORNEY MCCARTHY: May it please the Court,  
2 very briefly.

3 Something we just discovered about  
4 Mr. Akhter, which we brought to the Court's attention  
5 promptly at the end of last week and this week, was the  
6 fact that he had taken the money he earned in the DARPA  
7 contract -- which he performed faithfully -- and applied  
8 it to his grandmother's mortgage.

9 THE COURT: I saw that.

10 ATTORNEY MCCARTHY: That, more than  
11 anything --

12 THE COURT: And his grandmother acknowledged  
13 it in a letter.

14 ATTORNEY MCCARTHY: Indeed.

15 THE COURT: And indeed, all those letters  
16 will be part of the presentence report.

17 ATTORNEY MCCARTHY: And we know the Court  
18 has given them careful consideration, and we thank the  
19 Court for that.

20 The only other point I would want to make  
21 for the Court is, this probably will be as close to a  
22 juvenile sentencing proceeding as the Court --

23 THE COURT: "This probably will..."

24 ATTORNEY MCCARTHY: -- will be as close to a  
25 juvenile sentencing proceeding as this Court will get,

1 in the sense that the defendant and his brother, his  
2 twin brother, they are both 23 years old -- but have  
3 repeatedly demonstrated stupendous undersocialization,  
4 have lived in the bubble of their computer world while  
5 students, and have not yet fully formed as adults.

6 THE COURT: Well, I don't know about this  
7 bubble that you are referring to. You know, they stole  
8 money.

9 ATTORNEY MCCARTHY: Indeed.

10 THE COURT: And they took that money and  
11 they bought things, computers, and they bought their  
12 entrance tickets to computer conventions and that sort  
13 of thing.

14 ATTORNEY MCCARTHY: They committed crimes.

15 THE COURT: They stole money.

16 ATTORNEY MCCARTHY: They committed crimes.  
17 There's no question about that.

18 THE COURT: I don't see how that could have  
19 escaped their attention as being dead wrong.

20 ATTORNEY MCCARTHY: And when they did it,  
21 they knew they were getting a benefit from it. There is  
22 no question about that. And they understand that. I  
23 can't speak for Sohaib. His counsel can capably speak  
24 for him.

25 But for Muneeb Akhter, when I say they are

1 in -- Muneeb is in a bubble, I don't mean to trivialize  
2 the choices they made. But what I would ask the Court  
3 to do is temper the ultimate result with an appreciation  
4 for the fact that this young gentleman stands before the  
5 Court as a first offender, making tremendously poor  
6 decisions that perhaps a better socialized person would  
7 not make; not to --

8 THE COURT: What do you mean by  
9 "socialized"?

10 ATTORNEY MCCARTHY: The months that we have  
11 spent with Mr. Akhter -- what I mean to suggest to the  
12 Court is the -- he presents as a wonderfully developed  
13 person in his world of computer science. And the  
14 muscles in his mind that work toward that are  
15 hyper-developed.

16 Meanwhile, as Dan Farmer pointed out in his  
17 letter, other aspects of his person are stupendously  
18 underdeveloped; the ability to simply understand how the  
19 choices he made to follow a computer problem to its very  
20 end can have consequences for people.

21 One of the things that we learned while we  
22 were working on the case is the hackathons, which we  
23 brought the Court's attention to. That word frightened  
24 us when we first of it, that our clients engaged in  
25 hackathons.

1                   And what our client explained to us was,  
2                   hackathons are legitimately sponsored events by  
3                   universities and businesses to bring people with these  
4                   skills together to solve problems. And the idea --

5                   THE COURT: Well, let's come back to  
6                   socialization. What socialization was he missing that  
7                   didn't tell him that stealing money from people was  
8                   wrong?

9                   ATTORNEY MCCARTHY: Well, I don't mean to  
10                  suggest to the Court that he did not understand the  
11                  wrongfulness of his behavior. What I mean to suggest to  
12                  the Court is, he has this capacity, that he has got to  
13                  grow out of, of telescoping things down to the task  
14                  immediately in front of him, without looking up, looking  
15                  to his left, looking to his right, and contemplating the  
16                  impact those choices were making on people; not that he  
17                  didn't know what he was doing was wrong when he did it.

18                  But he, more than a lot of people that  
19                  Mr. Petrovich and I have worked with in the past, does  
20                  present with that peculiarity. And it's that  
21                  peculiarity I would ask the Court to just be thoughtful  
22                  about when it finally fashions a sentence on the young  
23                  man.

24                  Thank you, your Honor.

25                  THE COURT: Mr. Taddei.



1 ALLOCUTION BY THE GOVERNMENT

2 ATTORNEY TADDEI: Your Honor, the government  
3 maintains that a within-guideline sentence of 51 months  
4 of imprisonment is appropriate in this case and comports  
5 with the Section 3553(a) factors.

6 Now the Court is already very aware of all  
7 the facts relevant to this very expansive case. We are  
8 not going to belabor all of the appropriate points here,  
9 but I do want to highlight a few things.

10 First, I would like to point out that these  
11 were not victimless crimes. The defendant took  
12 advantage of the goodwill, first of Mr. Ishak's mother,  
13 who is the CEO of Victim Company 1. She had offered up  
14 her warehouse as both a sanctuary to Mr. Akhter when he  
15 was experiencing family trouble, as well as a physical  
16 location for his and his brother's fledgeling business.

17 Muneeb Akhter repaid her by breaking into  
18 her computer system, inserting a malicious code and  
19 stealing thousands of her customers' personal  
20 information.

21 Now those customers are also properly  
22 considered victims in this case, even though they did  
23 not suffer the ultimate financial losses of over  
24 \$30,000, which fell to the companies in this case.

25 The interviews of those numerous credit card

1 holders paint a picture of the average victim. Most of  
2 them are elderly women who had the misfortune of  
3 purchasing a beauty product on Victim Company 1's  
4 website. They then had to go through the stress of  
5 having their credit card and personal information  
6 compromised.

7 This defendant was even so callous as to  
8 sell these victims' personal information on the dark web  
9 to anonymous users for just five dollars a pop.

10 There were distinct victims of Muneeb  
11 Akhter's other hacking activities as well, your Honor.  
12 One of them, Ashok Mehan, who is the CEO of Victim  
13 Company 2, is in the courtroom here today.

14 Mr. Akhter's treatment --

15 THE COURT: And he is Victim Company  
16 Number 2 --

17 ATTORNEY TADDEI: Yes, your Honor.

18 THE COURT: That's the Mine --

19 ATTORNEY TADDEI: FedMine, your Honor.

20 THE COURT: FedMine.

21 ATTORNEY TADDEI: Yes, your Honor.

22 THE COURT: Yes.

23 ATTORNEY TADDEI: Now, Mr. --

24 THE COURT: That's the aggregation of  
25 information concerning government contracts and bids and

1 so forth.

2 ATTORNEY TADDEI: Yes, your Honor. That's  
3 correct.

4 THE COURT: All right.

5 ATTORNEY TADDEI: Now, Mr. Akhter's  
6 treatment of Mr. Mehan bears strong similarities to his  
7 treatment of Mr. Ishak's mother. Mr. Akhter took  
8 advantage of the opportunity to do contract work for  
9 Mr. Mehan's company.

10 Mr. Akhter did not accept Mr. Mehan's  
11 refusal to give him access to his company's valuable  
12 database of federal contract information. So Mr. Akhter  
13 did what he always seems to do when he is told no and a  
14 computer system is involved. He broke into Victim  
15 Company Number 2's computer systems.

16 His goal was, again, entirely self-serving.  
17 He wanted the information so that he could use it to  
18 form contract proposals that would benefit his own  
19 company.

20 Another victim here that is present today is  
21 Special Agent Gary Ross, with the Department of Homeland  
22 Security. By the time that Sohaib Akhter decided to use  
23 the State Department access to look up dozens of  
24 people's confidential passport information, Special  
25 Agent Ross was very familiar to Muneeb and his brother.

1                   The agent had been investigating the  
2                   Akhter's fraudulent activities for months, and he had  
3                   been one of the agents to execute the search warrant at  
4                   their house.

5                   So now what did Muneeb and Sohaib do? They  
6                   removed Special Agent Ross's information from State  
7                   Department systems, and that information included his  
8                   name, his photograph, his address, and other sensitive  
9                   information.

10                  At that point, Muneeb demonstrated a  
11                  dangerously vindictive mindset when he told Ishak that  
12                  he was considering selling Special Agent Ross's  
13                  information on the Darknet, because criminals might find  
14                  it valuable.

15                  Now the defendant maintains that he did not  
16                  seriously contemplate following through with this  
17                  threat. But, your Honor, I encourage you to consider  
18                  Mr. Akhter's prior conduct. He had previously sold the  
19                  personal and credit card information of Victim Company 1  
20                  customers on the dark web for five dollars per bundle.  
21                  Is it outlandish to think that he would seriously  
22                  consider doing the same with the special agent's  
23                  information?

24                  Muneeb Akhter's illegal possession of the  
25                  agent's most personal information and his threat to sell

1 it represented a great danger to the agent and his  
2 family. The defendant must be held accountable for  
3 this.

4 Furthermore, your Honor, we encourage this  
5 Court to consider the ongoing danger presented by the  
6 union by Mr. Akhter's computer skill and his complete  
7 disregard for both physical and electronic boundaries.

8 As reflected in Mr. Akhter's statement of  
9 facts, a recorded conversation reveals that in  
10 June 2014, Muneeb Akhter and his brother actively  
11 discussed plans for securing government employment,  
12 lying in wait to understand insider protection methods,  
13 accessing viruses and malware strains, and retooling  
14 them so they become a weapon.

15 A few months later, when Sohaib Akhter had  
16 settled into his position at the State Department, that  
17 conversation proved prophetic. Sohaib Akhter, with his  
18 brother's help, went into work on a weekend at a State  
19 Department building when he knew no one else would be  
20 around. He removed part of a wall and then attempted to  
21 secretly install a wireless device connected to the  
22 State Department computer systems.

23 If he had been successful, the Akhter  
24 brothers would have had wireless access to computer  
25 systems associated with a bureau in charge of

1 immigration and diplomatic security.

2 The danger of that access is again laid out  
3 by a conversation that Sohaib Akhter had about what he  
4 could do with the access: access passport applications,  
5 unilaterally approve visas and sell them, and create  
6 passports and visas.

7 Fortunately, their plan failed. But  
8 regardless of the Akhter brother's lack of success,  
9 their skill sets, coupled with the mere fact that they  
10 even contemplated such actions, demonstrate the dangers  
11 that they pose to individual and national security.

12 Now finally, your Honor, just in summing up,  
13 I want to touch on something that pervades the  
14 defendant's sentencing position here, and that's the  
15 assertion that he deserves some degree of leniency for,  
16 in his words, his utter failure to appreciate the  
17 seriousness of his conduct. In multiple filings, the  
18 defendant makes references to his gullibility and his  
19 stupendous undersocialization.

20 What I am left wondering, your Honor, is how  
21 many signs did this defendant need that his conduct was  
22 wrong?

23 He was first interviewed by Homeland  
24 Security agents in June 2014, after he boasted to  
25 coworkers that he had illegally hacked commercial

1 websites to add value to cards.

2 Then in July 2014, a month later, law  
3 enforcement officers raided his home. Still, he and his  
4 brother's criminal activity continued.

5 Then, after he was charged in a criminal  
6 complaint in March of 2015, he obstructed justice by  
7 aggressively attempting to keep his coconspirator,  
8 Ishak, from law enforcement officers.

9 Then in May of 2014 -- '15 -- excuse me,  
10 your Honor -- this Court revoked his bond for those  
11 obstructive activities. At that point it had been  
12 almost a year since his first interview with Homeland  
13 Security agents.

14 Then, while still in jail following his bond  
15 revocation, the defendant continued to tamper with  
16 computers, in clear violation of established rules, and  
17 in a manner that could have compromised the security of  
18 the facility.

19 Will the defendant ever accept full  
20 responsibility for his actions?

21 On many occasions I've heard this Court  
22 wisely note that life is about choices and, although  
23 individuals don't choose where they are from, they do  
24 choose what to do with the opportunities they are given.

25 Muneeb Akhter was 22 and 23 years old when

1 he committed the six felony offenses that this Court  
2 will sentence him for today. He has undergraduate and  
3 graduate degrees from one of this area's most  
4 prestigious universities. And the letters submitted on  
5 his behalf exemplify the fantastic opportunities and the  
6 wide breadth of human interaction, particularly in the  
7 technology and business worlds, that he has had.

8 Despite all of this, all of these tremendous  
9 opportunities, Mr. Akhter attempts to minimize choices  
10 by insinuating that he was so young and so  
11 unsophisticated that he should not be fully held  
12 accountable for his actions. We ask that he be held  
13 accountable.

14 Thank you, your Honor.

15 THE COURT: All right.

16 Anything further, Mr. McCarthy, by way of  
17 response?

18 ATTORNEY MCCARTHY: Nothing to add to that,  
19 your Honor.

20 THE COURT: All right.

21 IMPOSITION OF SENTENCE BY THE COURT

22 THE COURT: Mr. Akhter, come to the podium.

23 THE DEFENDANT: (Complies.)

24 THE COURT: Mr. Akhter, you stand convicted,  
25 as a result of your pleas, to 6 counts of a 12-count



1 indictment. I won't rehearse the offense conduct as I  
2 did at the outset, but they are serious crimes.

3 The law requires that I consider a variety  
4 of factors in imposing an appropriate sentence; first,  
5 your personal history and characteristics, with which I  
6 am familiar.

7 I have had letters from your mother, letters  
8 from your father, from other family members, and it is  
9 quite apparent to me that you are the beneficiary of a  
10 good strong family. You are the beneficiary of a good  
11 educational opportunity, that you have availed yourself  
12 of.

13 As Mr. McCarthy points out, I tell all  
14 defendants that life is making choices and living with  
15 the consequences of the choices that you make. You  
16 don't determine where you are born. You don't determine  
17 to whom you are born or whether you are born with  
18 handicaps or talents.

19 Well, I must note that you were a  
20 beneficiary. You were lucky in all of those. You were  
21 born to a good family. You were born with good  
22 abilities. You were born with good opportunities. And  
23 yet you chose to make bad decisions, and there are  
24 consequences.

25 They are not bad decisions; they are

1 criminal decisions. These are not errors in judgment.  
2 They are decisions to commit crimes. You need to  
3 understand that.

4 The only reason you were putting these bugs  
5 on these other computers to get information was to make  
6 use of them to make money. You were going to steal  
7 money from these card holders.

8 I don't think, in the end, you did get any  
9 information from FedMine that you could sell.

10 Is that right, Mr. Taddei?

11 ATTORNEY TADDEI: That's slightly incorrect,  
12 your Honor. The defendant had full access --

13 THE COURT: Yes, he did.

14 ATTORNEY TADDEI: -- to the system.

15 THE COURT: But did he -- he didn't sell any  
16 of that --

17 ATTORNEY TADDEI: He didn't remove it, he  
18 didn't sell it, no, your Honor.

19 THE COURT: Right. That's the point I was  
20 making. But that's just because, I guess, the  
21 opportunity ended.

22 Well, I am familiar with your personal  
23 history and characteristics, and I have recited some of  
24 them. You clearly have talent. You have ability. And  
25 it is up to you whether you squander that ability or

1       whether you make good use of it.

2               Now, you have a lot of years left open to  
3       you and you have a lot of decisions left open to you. I  
4       hope and trust you will make better decisions in the  
5       future.

6               The law requires that I impose a sentence,  
7       also, that reflects the seriousness of the crimes.

8               They are serious. They are very serious. I  
9       think -- they are all serious. The theft from these  
10      people from Victim Number 1 Company, the fact that you  
11      tried to access State Department information, very  
12      serious crimes.

13              The law also requires that I impose a  
14      sentence that promotes respect for the law, that  
15      provides just punishment for this conduct, and that  
16      serves to deter you and to deter others.

17              Well, I hope that you are now properly  
18      deterred, that you will not commit criminal conduct in  
19      the future. But the sentence I impose must nonetheless  
20      stand as a beacon, as a warning to others not to engage  
21      in conduct of this sort.

22              And the law requires that I consider the  
23      guidelines. They are advisory, not mandatory, but they  
24      are a factor that I consider and they are an important  
25      factor in avoiding unwarranted disparities between the

1 sentence I impose on you and the sentence imposed on  
2 others convicted of essentially similar conduct.

3 But in the end, a sentence is a judgment.  
4 It is a judgment, not a calculation, a mathematical  
5 calculation, that is done by the Court.

6 I have considered all of these factors, and  
7 it is the judgment of this Court that you should be  
8 committed to the custody of the Bureau of Prisons for a  
9 total period of 39 months.

10 I am going to impose three of those months  
11 on Count -- Count 12, is it? What's the obstruction  
12 count? It's Count 12.

13 ATTORNEY TADDEI: That's correct, your  
14 Honor.

15 THE COURT: And that is to run consecutively  
16 to 36 months on the remaining counts all to run  
17 concurrently.

18 So, in other words, 36 months on Counts 1,  
19 2, 7, 8, 10, and then 3 months to run consecutively with  
20 respect to Count 12.

21 Upon release from confinement, you are to  
22 serve a period of three years of supervised release with  
23 respect to each of the counts, but the three years is to  
24 run concurrently.

25 As a special condition of the supervised

1 release, you are to pay restitution to all victims of  
2 the offense.

3 Do we have an order to that affect?

4 ATTORNEY TADDEI: Yes, your Honor. We have  
5 restitution and forfeiture orders for the Court.

6 THE COURT: All right. Hand those to the  
7 court security officer.

8 I will enter and impose a restitution  
9 obligation and a forfeiture judgment.

10 And the law requires that you pay a \$100  
11 special assessment, for a total of \$600. It's \$100 per  
12 count. That's due and payable immediately.

13 Now in view of the restitution obligation,  
14 does the government argue for a fine?

15 ATTORNEY TADDEI: No, your Honor.

16 THE COURT: All right. In view -- I think  
17 that's appropriate.

18 Now, I'll waive -- somebody already checked  
19 that I'll waive interest. Was that -- who checked  
20 "waive interest"?

21 ATTORNEY TADDEI: Your Honor, I believe I  
22 checked that. That was my mistake. I apologize.

23 THE COURT: Well, it's what I do typically,  
24 so it's all right in this instance.

25 And I will enter this order, and it will

1 begin at \$100 a month or 25 percent of net income,  
2 whichever a greater, beginning 60 days after release  
3 from confinement.

4 And with respect to the order of forfeiture,  
5 the items that are forfeited -- there is a money  
6 judgment.

7 Do you have the money judgment?

8 ATTORNEY TADDEI: Not at this time, your  
9 Honor.

10 THE COURT: Why shouldn't it be a money  
11 judgment in the amount of the losses to the victim?

12 ATTORNEY TADDEI: It is, your Honor. The  
13 money judgment amount should equal the amount of  
14 restitution owed to the victims.

15 THE COURT: Any reason why you can't submit  
16 that early next week?

17 ATTORNEY TADDEI: We do not have the funds  
18 from the defendant at this point, your Honor, for that,  
19 but we would be happy to once we have received the  
20 forfeiture amounts, to remit that to the Clerk of the  
21 Court.

22 THE COURT: Mr. McCarthy, is he prepared to  
23 pay this restitution today?

24 ATTORNEY MCCARTHY: No, he is not, your  
25 Honor.

1 THE COURT: So then there will be a money  
2 judgment entered, won't there?

3 ATTORNEY TADDEI: Yes, your Honor.

4 THE COURT: Well, why shouldn't you submit  
5 an order, then, a judgment order?

6 ATTORNEY TADDEI: There is a judgment order  
7 in there, your Honor, for forfeiture.

8 THE COURT: Ah. All right.

9 ATTORNEY TADDEI: Sorry for the confusion,  
10 your Honor.

11 THE COURT: It's not for the -- an amount  
12 certain, though.

13 ATTORNEY TADDEI: Yes, it is.

14 THE COURT: What paragraph?

15 Oh, yes, it is, 31,375.

16 ATTORNEY TADDEI: Yes, your Honor. It  
17 should -- if I am correct, it should equal the amount of  
18 the restitution.

19 THE COURT: It does. All right.

20 Well, as I said, Mr. Akhter, life is making  
21 choices and living with the consequences of the choices  
22 you make.

23 Unlike many people, you were born fortunate.  
24 You were born into a good family. You were born with  
25 gifts and talents and intelligence. And you must make

1 better decisions.

2 If you make criminal decisions in the  
3 future, the consequences will be far worse. But you  
4 have a long life ahead of you, Mr. Akhter, and there is  
5 no reason why that long life should not be productive  
6 and entirely law-abiding.

7 Anything else in this matter today, on  
8 behalf of -- Ms. Riffle, anything else?

9 THE PROBATION OFFICER: Your Honor, any  
10 special conditions?

11 THE COURT: Yes. Let me -- thank you for  
12 reminding me. There are special conditions.

13 Ms. Riffle, do you have those on that sheet?  
14 If you would hand those to the court security officer.  
15 They seem to have escaped my possession here.

16 As special conditions of your supervised  
17 release, Mr. Akhter, you must comply with the  
18 requirements of a computer monitoring program as  
19 administered by the probation officer.

20 In other words, you have to consent to the  
21 installation of computer monitoring software on any  
22 computer that you have access to. And that will be done  
23 by the probation officer.

24 And you may not incur any new credit charges  
25 or open additional lines of credit without the approval



1 of the probation officer.

2 And you must provide the probation officer  
3 with requested financial information.

4 And, of course, you must apply all monies  
5 received from winnings or inheritance or judgments or  
6 refunds of taxes and the like to your restitution  
7 totaling \$31,375.55. That's the restitution that I am  
8 imposing.

9 And the victims that will go to are all of  
10 these companies: U.S. Airlines, Viceroy Hotel, Dollar  
11 Rental Car, American Airlines, United Airlines,  
12 DealDash, Cabella's, Sands Institute, Overnight Prints,  
13 B-Zid, Newegg, 1105 Media, IBM, TechConnect, Busch  
14 Gardens, GrubHub, and Microsoft Online.

15 Now, the way in which I want that done is,  
16 he's going to pay either 25 percent of his income or, if  
17 it's less than -- no less than \$100 a month or as much  
18 as 25 percent of his income.

19 And the way in which I want that done is to,  
20 as each check comes in for each month, the victims,  
21 starting with the greatest amount, get the first check.  
22 In other words, I think it's Sands Institute -- what is  
23 Sands Institute?

24 ATTORNEY TADDEI: It is the organization  
25 that supplied learning materials for particular

1 certification courses.

2 THE COURT: All right. Well, they will get  
3 the first check. Then the biggest loss -- the next  
4 biggest loss is the -- no, they aren't the biggest loss.  
5 The first one is DealDash. What is DealDash?

6 ATTORNEY TADDEI: It's an online auction  
7 site that allows people to bid for various items,  
8 computers --

9 THE COURT: So, obviously, they were bidding  
10 and getting certain items and they didn't pay.

11 ATTORNEY TADDEI: Yes. That's correct, your  
12 Honor.

13 THE COURT: All right. And they were using  
14 stolen identity information to do that.

15 ATTORNEY TADDEI: Yes.

16 THE COURT: All right.

17 So the first check will go to the biggest  
18 loss, DealDash. The second one will go to the second  
19 one, which is the Sands Institute. And the third one  
20 would go to the next one down the line, which is U.S.  
21 Airlines. And so on. I think that makes it clear.

22 Is there anything else that needs to be said  
23 in connection with the sentence, Ms. Riffle?

24 THE PROBATION OFFICER: No, your Honor.

25 THE COURT: From the government, Mr. Taddei?

1 ATTORNEY TADDEI: No, your Honor. Thank  
2 you.

3 THE COURT: Mr. McCarthy, for the defendant?

4 ATTORNEY MCCARTHY: If it please the Court,  
5 three quick items.

6 Would the Court be willing just to recommend  
7 a facility close to the Washington, DC, area?

8 THE COURT: Yes, I will do that.

9 ATTORNEY MCCARTHY: Thank you, your Honor.

10 THE COURT: So that he may be near his  
11 family.

12 ATTORNEY MCCARTHY: Exactly, your Honor.

13 Would the Court also be willing to recommend  
14 that the BOP consider putting the brothers in the same  
15 facility?

16 THE COURT: What's the government's view of  
17 that?

18 ATTORNEY TADDEI: Given the nature of the  
19 conduct in this case, we would object to that, your  
20 Honor.

21 THE COURT: I will leave it to the Bureau of  
22 Prisons.

23 ATTORNEY MCCARTHY: Very good, your Honor.

24 THE COURT: They can do as they wish.

25 ATTORNEY MCCARTHY: Finally --

1 THE COURT: They are twins, but they are not  
2 identical, are they?

3 ATTORNEY MCCARTHY: They are.

4 THE COURT: They are identical?

5 ATTORNEY MCCARTHY: They are, your Honor.

6 THE COURT: Your concern, Mr. Taddei, is  
7 that together they would concoct more schemes. Is that  
8 your concern?

9 ATTORNEY TADDEI: My concern, particularly  
10 with respect to Muneeb, is his behavior in the jail  
11 here, and if his brother is there, someone, you know,  
12 obvious similar appearance could present certain  
13 challenges to prison officials, in addition to  
14 Mr. Akhter's conduct and his unwillingness to follow the  
15 rules in the jail, plus all their activities that they  
16 have conducted for which they are being sentenced today,  
17 is that it's -- it's a security and safety risk to have  
18 them in the same facility, your Honor.

19 THE COURT: Typically, Mr. McCarthy, as you  
20 know, the Bureau of Prisons doesn't put coconspirators  
21 together.

22 ATTORNEY MCCARTHY: I know.

23 THE COURT: And I am going to leave it to  
24 the Bureau of Prisons.

25 ATTORNEY MCCARTHY: Very good.

1 Last quick item --

2 THE COURT: Yes.

3 ATTORNEY MCCARTHY: -- the Court revoked the  
4 conditions of Mr. Akhter's release following the Malta  
5 incident. Would the Court be willing to grant --

6 THE COURT: He will get credit for that  
7 time.

8 ATTORNEY MCCARTHY: Of course.

9 Would the Court be willing to grant him the  
10 privilege of self-surrender, and allow him to go out on  
11 his bond again until the BOP designates a facility?

12 THE COURT: What's the government's position  
13 on that?

14 ATTORNEY TADDEI: We object to that, your  
15 Honor, for the reasons that we have already been over  
16 which relates to the obstruction of justice previously  
17 and, in addition, you know, his ongoing conduct which I  
18 just addressed.

19 THE COURT: Mr. McCarthy, I am going to deny  
20 that request. That's a bridge that has been crossed and  
21 cannot go back over.

22 ATTORNEY MCCARTHY: No other issues. Thank  
23 you, your Honor.

24 THE COURT: All right.

25 Good luck to you, Mr. Akhter.

1 THE DEFENDANT: Thanks.

2 THE COURT: And let me say again, you have a  
3 lot of life left open to you. And you can look to your  
4 right, you have a supportive, strong family. And as I  
5 read all of these letters, none of these other people  
6 ever have committed any crimes. And you have special  
7 gifts. You are a smart young man. You have a great  
8 deal of potential.

9 And there is only one person who can decide  
10 whether that potential is put to good use or to criminal  
11 use and waste it.

12 And who is that?

13 THE DEFENDANT: That is me.

14 THE COURT: That is you, Muneeb Akhter.

15 Good luck to you, sir.

16 ATTORNEY MCCARTHY: Thank you, your Honor.

17 THE COURT: All right. I will take a  
18 five-minute recess and take up the case of his twin  
19 brother.

20 Court stands in recess.

21 (Court adjourned at 2:15 p.m. in USA v  
22 Muneeb Akhter.)

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1  
2 CERTIFICATE

3  
4 I, MICHAEL A. RODRIQUEZ, an Official Court  
5 Reporter for the United States District Court, in the  
6 Eastern District of Virginia, Alexandria Division, do  
7 hereby certify that I reported by machine shorthand, in  
8 my official capacity, the proceedings had upon the  
9 sentencing hearing in the case of UNITED STATES OF  
10 AMERICA v. MUNEEB AKHTER.

11  
12 I further certify that I was authorized and  
13 did report by stenotype the proceedings in said  
14 sentencing hearing, and that the foregoing pages,  
15 numbered 1 to 79, inclusive, constitute the official  
16 transcript of said proceedings as taken from my machine  
17 shorthand notes.

18  
19 IN WITNESS WHEREOF, I have hereto subscribed  
20 my name this 20th day of February 20, 2017.

21  
22  
23 \_\_\_\_\_ /s/

24 Michael A. Rodriquez, RPR/CM/RMR

25 Official Court Reporter

MICHAEL A. RODRIQUEZ, RPR/CM/RMR